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In re Application of
Curtis L. Taylor
Application No.08/954,291
Filed: October 17, 1997
Attorney Docket No. 3053-28781

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: DECISION GRANTING PETITION
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This is a decision on the Petition To Correct Filing Date Under 37 CFR 1.10, filed March 28, 2000, by facsimile transmission, requesting that the above-identified application be accorded a filing date of October 17, 1997, instead of the presently accorded date of October 20, 1997.

Receipt is acknowledged of an information disclosure statement filed October 20, 1997 and a foreign priority document filed December 15, 1998.

Petitioners filed a reissue application for U.S. Patent No. 5,458,483, issued October 17, 1995. The reissue application and an information disclosure statement were received in the U. S. Patent and Trademark Office on October 20, 1997.

On February 4, 1998, a Notice to File Missing Parts of Application, Filing Date Granted for missing declaration and signatures was mailed to the applicant.

On February 17, 1998, a Request for Corrected Filing Receipt was filed.

On August 7, 1998, a declaration with signatures and a preliminary amendment were received.

On March 28, 2000, the present petition, including an authorization to charge counsel's deposit account, was filed. Petitioners argue that the application was filed on October 17, 1997, not October 20, 1997.

In support thereof, petitioners provided a copy of the Express Mail label, receipt no. EM343389952US, showing a Date-In of October 17, 2000. The same Express Mail receipt number was referred to in the transmittal letter (submitted with the original Application) with a USPTO mail room label of October 17, 1997. Petitioners request that the application be accorded a filing date of October 17, 1997.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 17, 1997.

In view of the above, the petition is granted.

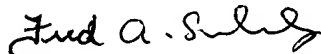
No petition fee is due.

The preliminary amendment filed August 7, 1998, will be entered in due course and must be considered by the examiner for entry of new matter not described in the application as filed. 35 USC 112, first paragraph; 35 USC 132.

The application is being forwarded to Office of Initial Patent Examination for the correction of the application filing date to **October 17, 1997**.

Thereafter, the application will be forwarded to Technology Center 3743 for examination in due course of the reissue application.

Telephone inquiries concerning this matter should be directed to Anton Fetting of the Special Program Law Office at 703-305-9285.



Fred A. Silverberg
Senior Legal Advisor
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for Patent Policy and Projects

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